

**Calendar No. 497**

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2243**

To amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 7), 1994

Mr. STEVENS (for himself, Mrs. MURRAY, Mr. GORTON, Mr. MURKOWSKI, and Mr. PACKWOOD) introduced the following bill; which was read twice and ordered held at the desk until the close of business on June 27, 1994.

JUNE 27 (legislative day, JUNE 7), 1994

Ordered to be placed on the calendar

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**A BILL**

To amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country whenever the United States considers that fee to be inconsistent with international law, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. FINDINGS.**

2 The Congress finds that—

3 (1) customary international law and the United  
4 Nations Convention on the Law of the Sea guaran-  
5 tee the right of passage, including innocent passage,  
6 to vessels through the waters commonly referred to  
7 as the “Inside Passage” off the Pacific Coast of  
8 Canada;

9 (2) Canada has recently announced that it will  
10 require all commercial fishing vessels of the United  
11 States to pay 1,500 Canadian dollars to obtain a “li-  
12 cense which authorizes transit” through the Inside  
13 Passage off the Pacific Coast of Canada;

14 (3) this action is inconsistent with international  
15 law, including the United Nations Convention on the  
16 Law of the Sea, and in particular Article 26 of that  
17 Convention, which specifically prohibits such fees,  
18 and threatens the safety of United States commer-  
19 cial fishermen who may seek to avoid the fee by  
20 traveling in less protected waters;

21 (4) the Fishermen’s Protective Act of 1967 pro-  
22 vides for the reimbursement of vessel owners who  
23 are forced to pay a license fee to secure the release  
24 of a vessel which has been seized, but does not per-  
25 mit reimbursement of a fee paid by the owner in ad-  
26 vance in order to prevent a seizure;

1           (5) Canada has announced that the license fee  
2           may only be paid in two ports on the Pacific Coast  
3           of Canada, and must be paid in person or in ad-  
4           vance by mail;

5           (6) significant expense and delay would be in-  
6           curred by a commercial fishing vessel of the United  
7           States that had to travel from the point of seizure  
8           back to one of those ports in order to pay the license  
9           fee required by Canada, and the costs of that travel  
10          and delay cannot be reimbursed under the Fisher-  
11          men's Protective Act as presently enacted;

12          (7) the Fishermen's Protective Act of 1967  
13          should be amended to permit vessel owners to be re-  
14          imbursed for fees required by a foreign government  
15          to be paid in advance in order to navigate in the wa-  
16          ters of that foreign country, provided the United  
17          States considers that fee to be inconsistent with  
18          international law;

19          (8) the Secretary of State should seek to re-  
20          cover from Canada any amounts paid by the United  
21          States to reimburse vessel owners who paid the tran-  
22          sit license fee;

23          (9) the United States should review its current  
24          policy with respect to anchorage by commercial fish-  
25          ing vessels of Canada in waters of the United States

1 off Alaska, including waters in and near the Dixon  
2 Entrance, and should accord such vessels the same  
3 treatment that commercial fishing vessels of the  
4 United States are accorded for anchorage in the wa-  
5 ters of Canada off British Columbia;

6 (10) the President should ensure that, consist-  
7 ent with international law, the United States Coast  
8 Guard has available adequate resources in the Pa-  
9 cific Northwest and Alaska to provide for the safety  
10 of United States citizens, the enforcement of United  
11 States law, and to protect the rights of the United  
12 States and keep the peace among vessels operating  
13 in disputed waters;

14 (11) the President should continue to review all  
15 agreements between the United States and Canada  
16 to identify other actions that may be taken to con-  
17 vince Canada that continuation of the transit license  
18 fee would be against Canada's long-term interests,  
19 and should immediately implement any actions  
20 which the President deems appropriate until Canada  
21 rescinds the fee;

22 (12) the President should immediately convey  
23 to Canada in the strongest terms that the United  
24 States will not now, nor at any time in the future,  
25 tolerate any action by Canada which would impede

1 or otherwise restrict the right of passage of vessels  
2 of the United States vessels in a manner inconsis-  
3 tent with international law; and

4 (13) the United States should redouble its ef-  
5 forts to seek expeditious agreement with Canada on  
6 appropriate fishery conservation and management  
7 measures that can be implemented through the Pa-  
8 cific Salmon Treaty to address issues of mutual con-  
9 cern.

10 **SEC. 2. AMENDMENT TO THE FISHERMEN'S PROTECTIVE**  
11 **ACT.**

12 The Fishermen's Protective Act of 1967 (Public Law  
13 90-482), as amended, is further amended by adding at  
14 the end the following new section:

15 "SEC. 11. (a) In any case on or after June 15, 1994  
16 in which a vessel of the United States exercising its right  
17 of passage is charged a fee by the government of a foreign  
18 country to navigate in waters of that foreign country, and  
19 such fee is regarded by the United States as being incon-  
20 sistent with international law, the Secretary of State shall  
21 reimburse the vessel owner for the amount of any such  
22 fee paid under protest.

23 "(b) In seeking such reimbursement, the vessel owner  
24 shall provide, together with such other information as the  
25 Secretary of State may require—

1           “(1) a copy of the receipt for payment;

2           “(2) an affidavit attesting that the owner or the  
3       owner’s agent paid the fee under protest; and

4           “(3) a copy of the vessel’s certificate of docu-  
5       mentation.

6       “(c) Requests for reimbursement shall be made to the  
7       Secretary of State within 120 days of the date of payment  
8       of the fee, or within 90 days of the date of enactment  
9       of this section, whichever is later.

10       “(d) Such funds as may be necessary to meet the re-  
11       quirements of this section shall be made available from  
12       the unexpended balances remaining in the Fishermen’s  
13       Guaranty Fund established under section 7 and the Fish-  
14       ermen’s Protective Fund established under section 9. To  
15       the extent that requests for reimbursement under this sec-  
16       tion exceed the unexpended funds available, payments  
17       shall be made under this section only to the extent and  
18       in such amounts as are provided in advance in appropria-  
19       tions Acts.

20       “(e) The Secretary of State shall take such action  
21       as the Secretary deems appropriate to make and collect  
22       claims against the foreign country imposing such fee for  
23       any amounts reimbursed under this section.

24       “(f) For purposes of this section, the term ‘owner’  
25       includes any charterer of a vessel of the United States.”.

1 **SEC. 3. REAUTHORIZATION.**

2 (a) Section 7(c) of the Fishermen's Protective Act of  
3 1967 (22 U.S.C. 1977(c)) is amended by striking "The  
4 amount fixed by the Secretary shall be predicated upon  
5 at least 33 $\frac{1}{3}$  per centum of the contribution by the Gov-  
6 ernment."

7 (b) Section 7(e) of the Fishermen's Protective Act of  
8 1967 (22 U.S.C. 1977(e)) is amended by striking "Octo-  
9 ber 1, 1993" and inserting in lieu thereof "October 1,  
10 2000".

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